

AMENDED IN SENATE AUGUST 5, 1996

AMENDED IN SENATE JUNE 20, 1996

AMENDED IN ASSEMBLY MAY 2, 1996

AMENDED IN ASSEMBLY APRIL 11, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3471

Introduced by Committee on Judiciary (Assembly Members Morrow (Chairman), Alby, Battin, Baugh, Bowen, Davis, Goldsmith, House, Kaloogian, Knight, Knowles, Machado, and Mazzoni)

March 4, 1996

An act to amend Sections 116.340, 116.360, 116.370, 116.390, ~~116.540,~~ 116.570, 116.610, 116.820, 116.910, 405.22, 488.395, ~~685.070, 700.070, and 904.2~~ *and 700.070* of, and to add Section 1985.7 to, the Code of Civil Procedure, *and* to amend Sections ~~53069.4,~~ 68150, 68151, 68152, and 68616 of the Government Code, ~~and to amend Sections 40230 and 40256 of the Vehicle Code,~~ relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3471, as amended, Committee on Judiciary. Courts.

(1) Existing law prescribes the jurisdiction and procedures for small claims court, as specified.

This bill would revise small claims court provisions governing destruction of records; claims of a defendant; challenge to venue; transfers of actions; postponements;

judgments involving specific property, and apportionment of filing fees, as specified.

(2) Existing law requires a claimant in certain civil actions to notify all owners of record of real property as shown by the latest county assessment roll or more recent assessment information in the possession of the county assessor.

This bill would remove the latter requirement with respect to more recent assessment information in the possession of the county assessor.

(3) Existing law with respect to attachment provides for the levying officer to place a keeper in charge of a going business, who is required to take custody of the proceeds of all sales. The levying officer is required to take tangible personal property into exclusive custody, as specified.

This bill would require the levying officer to take custody of any money or equivalent proceeds of the sale of a going business at the end of each daily keeper period.

~~(4) Existing law specifies the time for serving a memorandum of costs on a judgment debtor.~~

~~This bill would extend that time period, as specified.~~

~~(5) Existing law makes a medical provider liable for specified expenses if he or she fails to make patient records available to a representative of the patient, as specified.~~

This bill would also require such a medical provider to respond to an order to show cause with respect to that failure.

~~(6)~~

(5) Existing law specifies the manner by which trial court records may be preserved, and the period of time during which these records may not be destroyed. In general, the records in a civil case or a small claims case may not be destroyed for at least 10 years after final disposition of the case. Existing law creates numerous exceptions to this provision, however. The records in a mental health case brought pursuant to the Lanterman-Petris-Short Act, for example, may not be destroyed for 30 years. In addition, existing law permits the trial court clerk to destroy the records in a civil case that has either been involuntarily dismissed by a court or voluntarily dismissed by a party without entry of judgment after only one year.



Existing law also provides that court records consist of specified papers and documents, including administrative records and exhibits.

This bill would revise, recast, and clarify these provisions. The bill would specify that court records include administrative records filed in an action or proceeding and paper exhibits. The bill would expand the exception permitting the destruction of records in a civil case that has been dismissed, to apply to small claims cases.

The bill would also provide that the records in a mental health case brought pursuant to the Lanterman Developmental Disabilities Services Act may not be destroyed for 30 years. By increasing the duties of local court employees, the bill would create a state-mandated local program.

(7)

(6) Existing law with respect to trial court delay reduction specifies the provisions governing discovery proceedings in civil actions to which it applies.

This bill would specify that local rules of court may not shorten the time periods set forth in those provisions.

~~(8) Existing law specifies when an appeal may be taken from a municipal court judgment.~~

~~This bill would prohibit further appeal from an appeal to municipal court of an administrative order or decision regarding an administrative, parking, or toll evasion fine or penalty. The bill would also specify that these appellate hearings in municipal court shall be informal.~~

(9)

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by

the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116.340 of the Code of Civil
2 Procedure is amended to read:

3 116.340. (a) Service of the claim and order on the
4 defendant may be made by any one of the following
5 methods:

6 (1) The clerk may cause a copy of the claim and order
7 to be mailed to the defendant by any form of mail
8 providing for a return receipt.

9 (2) The plaintiff may cause a copy of the claim and
10 order to be delivered to the defendant in person.

11 (3) The plaintiff may cause service of a copy of the
12 claim and order to be made by substituted service as
13 provided in subdivision (a) or (b) of Section 415.20
14 without the need to attempt personal service on the
15 defendant. For these purposes, substituted service as
16 provided in subdivision (b) of Section 415.20 may be
17 made at the office of the sheriff or marshal who shall
18 deliver a copy of the claim and order to any person
19 authorized by the defendant to receive service, as
20 provided in Section 416.90, who is at least 18 years of age,
21 and thereafter mailing a copy of the claim and order to
22 the defendant's usual mailing address.

23 (4) The clerk may cause a copy of the claim to be
24 mailed, the order to be issued, and a copy of the order to
25 be mailed as provided in subdivision (b) of Section
26 116.330.

27 (b) Service of the claim and order on the defendant
28 shall be completed at least 10 days before the hearing date
29 if the defendant resides within the county in which the
30 action is filed, or at least 15 days before the hearing date
31 if the defendant resides outside the county in which the
32 action is filed.

1 (c) Service by the methods described in subdivision
2 (a) shall be deemed complete on the date that the
3 defendant signs the mail return receipt, on the date of the
4 personal service, as provided in Section 415.20, or as
5 established by other competent evidence, whichever
6 applies to the method of service used.

7 (d) Service shall be made within this state, except as
8 provided in subdivisions (e) and (f).

9 (e) The owner of record of real property in California
10 who resides in another state and who has no lawfully
11 designated agent in California for service of process may
12 be served by any of the methods described in this section
13 if the claim relates to that property.

14 (f) A nonresident owner or operator of a motor vehicle
15 involved in an accident within this state may be served
16 pursuant to the provisions on constructive service in
17 Sections 17450 to 17461, inclusive, of the Vehicle Code
18 without regard to whether the defendant was a
19 nonresident at the time of the accident or when the claim
20 was filed. Service shall be made by serving both the
21 Director of the California Department of Motor Vehicles
22 and the defendant, and may be made by any of the
23 methods authorized by this chapter or by registered mail
24 as authorized by Section 17454 or 17455 of the Vehicle
25 Code.

26 (g) If an action is filed against a principal and his or her
27 guaranty or surety pursuant to a guarantor or suretyship
28 agreement, a reasonable attempt shall be made to
29 complete service on the principal. If service is not
30 completed on the principal, the action shall be
31 transferred to the court of appropriate jurisdiction.

32 SEC. 2. Section 116.360 of the Code of Civil Procedure
33 is amended to read:

34 116.360. (a) The defendant may file a claim against
35 the plaintiff in the same action in an amount not to exceed
36 the jurisdictional limits stated in Sections 116.220 and
37 116.231. The claim need not relate to the same subject or
38 event as the plaintiff's claim.

1 (b) The defendant's claim shall be filed and served in
2 the manner provided for filing and serving a claim of the
3 plaintiff under Sections 116.330 and 116.340.

4 (c) The defendant shall cause a copy of the claim and
5 order to be served on the plaintiff at least five days before
6 the hearing date, unless the defendant was served 10 days
7 or less before the hearing date, in which event the
8 defendant shall cause a copy of the defendant's claim and
9 order to be served on the plaintiff at least one day before
10 the hearing date.

11 SEC. 3. Section 116.370 of the Code of Civil Procedure
12 is amended to read:

13 116.370. (a) Venue in small claims actions shall be the
14 same as in other civil actions.

15 (b) A defendant may challenge venue by writing to
16 the court and mailing a copy of the challenge to each of
17 the other parties to the action, without personally
18 appearing at the hearing.

19 (c) In all cases, including those in which the defendant
20 does not either challenge venue or appear at the hearing,
21 the court shall inquire into the facts sufficiently to
22 determine whether venue is proper, and shall make its
23 determination accordingly.

24 (1) If the court determines that the action was not
25 commenced in the proper venue, the court, on its own
26 motion, shall dismiss the action without prejudice unless
27 all defendants are present and agree that the action may
28 be heard.

29 (2) If the court determines that the action was
30 commenced in the proper venue, the court may hear the
31 case if all parties are present. If the defendant challenged
32 venue and all parties are not present, the court shall
33 postpone the hearing for at least 15 days and shall notify
34 all parties by mail of the court's decision and the new
35 hearing date, time, and place.

36 SEC. 4. Section 116.390 of the Code of Civil Procedure
37 is amended to read:

38 116.390. (a) If a defendant has a claim against a
39 plaintiff that exceeds the jurisdictional limits stated in
40 Sections 116.220 and 116.231, and the claim relates to the

1 contract, transaction, matter, or event which is the
2 subject of the plaintiff's claim, the defendant may
3 commence an action against the plaintiff in a court of
4 competent jurisdiction and request the small claims court
5 to transfer the small claims action to that court.

6 (b) The defendant may make the request by filing
7 with the small claims court in which the plaintiff
8 commenced the action, at or before the time set for the
9 hearing of that action, a declaration stating the facts
10 concerning the defendant's action against the plaintiff
11 with a true copy of the complaint so filed by the
12 defendant against the plaintiff and the sum of one dollar
13 (\$1) for a transmittal fee. The defendant shall cause a
14 copy of the declaration and complaint to be personally
15 delivered to the plaintiff at or before the time set for the
16 hearing of the small claims action.

17 (c) In ruling on a motion to transfer, the small claims
18 court may do any of the following: (1) render judgment
19 on the small claims case prior to the transfer; (2) not
20 render judgment and transfer the small claims case; (3)
21 refuse to transfer the small claims case on the grounds
22 that the ends of justice would not be served. If the small
23 claims action is transferred prior to judgment, both
24 actions shall be tried together in the transferee court.

25 (d) When the small claims court orders the action
26 transferred, it shall transmit all files and papers to the
27 transferee court.

28 (e) The plaintiff in the small claims action shall not be
29 required to pay to the clerk of the transferee court any
30 transmittal, appearance, or filing fee unless the plaintiff
31 appears in the transferee court, in which event the
32 plaintiff shall be required to pay the filing fee and any
33 other fee required of a defendant in the transferee court.
34 However, if the transferee court rules against the plaintiff
35 in the action filed in that court, the court may award to
36 the defendant in that action the costs incurred as a
37 consequence of the transfer, including attorney's fees and
38 filing fees.

39 ~~SEC. 5. Section 116.540 of the Code of Civil Procedure~~
40 ~~is amended to read:~~

1 ~~116.540. (a) Except as permitted by this section, no~~
2 ~~individual other than the plaintiff and the defendant may~~
3 ~~take part in the conduct or defense of a small claims~~
4 ~~action.~~

5 ~~(b) A corporation may appear and participate in a~~
6 ~~small claims action only through a regular employee, or~~
7 ~~a duly appointed or elected officer or director, who is~~
8 ~~employed, appointed, or elected for purposes other than~~
9 ~~solely representing the corporation in small claims court.~~

10 ~~(c) A party who is not a corporation or a natural person~~
11 ~~may appear and participate in a small claims action only~~
12 ~~through a regular employee, or a duly appointed or~~
13 ~~elected officer or director, or in the case of a partnership,~~
14 ~~a partner, engaged for purposes other than solely~~
15 ~~representing the party in small claims court.~~

16 ~~(d) If a party is an individual doing business as a sole~~
17 ~~proprietorship, the party may appear and participate in~~
18 ~~a small claims action by a representative and without~~
19 ~~personally appearing if both of the following conditions~~
20 ~~are met:~~

21 ~~(1) The claim can be proved or disputed by evidence~~
22 ~~of an account that constitutes a business record as defined~~
23 ~~in Section 1271 of the Evidence Code, and there is no~~
24 ~~other issue of fact in the case.~~

25 ~~(2) The representative is a regular employee of the~~
26 ~~party for purposes other than solely representing the~~
27 ~~party in small claims actions and is qualified to testify to~~
28 ~~the identity and mode of preparation of the business~~
29 ~~record.~~

30 ~~(e) A plaintiff is not required to personally appear, and~~
31 ~~may submit declarations to serve as evidence supporting~~
32 ~~his or her claim or allow another individual to appear and~~
33 ~~participate on his or her behalf, if (1) the plaintiff is~~
34 ~~serving on active duty in the United States armed forces~~
35 ~~outside this state, (2) the plaintiff was assigned to his or~~
36 ~~her duty station after his or her claim arose, (3) the~~
37 ~~assignment is for more than six months, (4) the~~
38 ~~representative is serving without compensation, and (5)~~
39 ~~the representative has appeared in small claims actions~~
40 ~~on behalf of others no more than four times during the~~

1 ~~calendar year. The defendant may file a claim in the same~~
2 ~~action in an amount not to exceed the jurisdictional limits~~
3 ~~stated in Sections 116.220 and 116.231.~~

4 ~~(f) A party incarcerated in a county jail, a Department~~
5 ~~of Corrections facility, or a Youth Authority facility is not~~
6 ~~required to personally appear, and may submit~~
7 ~~declarations to serve as evidence supporting his or her~~
8 ~~claim, or may authorize another individual to appear and~~
9 ~~participate on his or her behalf if that individual is serving~~
10 ~~without compensation and has appeared in small claims~~
11 ~~actions on behalf of others no more than four times during~~
12 ~~the calendar year.~~

13 ~~(g) A defendant who is a nonresident owner of real~~
14 ~~property may defend against a claim relating to that~~
15 ~~property without personally appearing by any of the~~
16 ~~following methods: (1) submitting written declarations to~~
17 ~~serve as evidence supporting his or her defense, (2)~~
18 ~~allowing another individual to appear and participate on~~
19 ~~his or her behalf if that individual is serving without~~
20 ~~compensation and has appeared in small claims actions on~~
21 ~~behalf of others no more than four times during the~~
22 ~~calendar year, or (3) doing both of these.~~

23 ~~(h) At the hearing of a small claims action, the court~~
24 ~~shall require any individual who is appearing as a~~
25 ~~representative of a party under subdivision (b), (c), (d),~~
26 ~~(e), (f), or (g), to file a declaration stating (1) that the~~
27 ~~individual is authorized to appear for the party, and (2)~~
28 ~~the basis for that authorization. If the representative is~~
29 ~~appearing under subdivision (b), (c), or (d), the~~
30 ~~declaration also shall state that the individual is not~~
31 ~~employed solely to represent the party in small claims~~
32 ~~court. If the representative is appearing under~~
33 ~~subdivision (e), (f), or (g), the declaration also shall state~~
34 ~~that the representative is serving without compensation;~~
35 ~~and has appeared in small claims actions on behalf of~~
36 ~~others no more than four times during the calendar year.~~

37 ~~(i) A husband or wife who sues or who is sued with his~~
38 ~~or her spouse may appear and participate on behalf of his~~
39 ~~or her spouse if (1) the claim is a joint claim, (2) the~~
40 ~~represented spouse has given his or her consent, and (3)~~

~~the court determines that the interests of justice would be served.~~

~~(j) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.~~

~~(k) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.~~

~~SEC. 6.~~

SEC. 5. Section 116.570 of the Code of Civil Procedure is amended to read:

116.570. (a) Any party may submit a written request for postponement of a hearing date.

(1) The written request may be made either by letter or on a form adopted or approved by the Judicial Council.

(2) On the date of making the written request, the requesting party shall mail or personally deliver a copy to each of the other parties to the action.

(3) If the court finds that the interests of justice would be served by postponing the hearing, the court shall postpone the hearing, and shall notify all parties by mail of the new hearing date, time, and place.

(4) The court shall provide a prompt response by mail to any person making a written request for postponement of a hearing date under this subdivision.

(b) If service of the claim and order upon the defendant is not completed within the number of days before the hearing date required by subdivision (b) of Section 116.340, and the defendant has not personally appeared and has not requested a postponement, the court shall postpone the hearing for at least 15 days. If a postponement is ordered under this subdivision, the clerk shall promptly notify all parties by mail of the new hearing date, time, and place.

(c) Nothing in this section limits the inherent power of the court to order postponements of hearings in appropriate circumstances.

(d) A fee of ten dollars (\$10) shall be charged and collected for the filing of a request for postponement and rescheduling of a hearing date after timely service pursuant to subdivision (b) of Section 116.340 has been made upon the defendant.

~~SEC. 7.~~

SEC. 6. Section 116.610 of the Code of Civil Procedure is amended to read:

116.610. (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220 and 116.231, and may make such orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

(b) The court may, at its discretion or on request of any party, continue the matter to a later date in order to permit and encourage the parties to attempt resolution by informal or alternative means.

(c) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant's operation of a motor vehicle, or by the operation by some other individual, of a motor vehicle registered in the defendant's name.

(d) If the defendant has filed a claim against the plaintiff, or if the judgment is against two or more defendants, the judgment, and the statement of decision if one is rendered, shall specify the basis for and the character and amount of the liability of each of the parties, including, in the case of multiple judgment debtors, whether the liability of each is joint or several.

(e) If specific property is referred to in the judgment, whether it be personal or real, tangible or intangible, the property shall be identified with sufficient detail to permit efficient implementation or enforcement of the judgment.

(f) In an action against several defendants, the court may, in its discretion, render judgment against one or

1 more of them, leaving the action to proceed against the
2 others, whenever a several judgment is proper.

3 (g) The prevailing party is entitled to the costs of the
4 action, including the costs of serving the order for the
5 appearance of the defendant.

6 (h) When the court renders judgment, the clerk shall
7 promptly deliver or mail notice of entry of the judgment
8 to the parties, and shall execute a certificate of personal
9 delivery or mailing and place it in the file.

10 (i) The notice of entry of judgment shall be on a form
11 approved or adopted by the Judicial Council.

12 ~~SEC. 8.~~

13 *SEC. 7.* Section 116.820 of the Code of Civil Procedure
14 is amended to read:

15 116.820. (a) The judgment of a small claims court
16 may be enforced as provided in Title 9 (commencing
17 with Section 680.010) of Part 2 and in Sections 674 and
18 1174 on the enforcement of judgments of other courts. A
19 judgment of the superior court after a hearing on appeal,
20 and after transfer to the small claims court under
21 subdivision (d) of Section 116.780, may be enforced like
22 other judgments of the small claims court, as provided in
23 Title 9 (commencing with Section 680.010) of Part 2 and
24 in Sections 674 and 1174 on the enforcement of judgments
25 of other courts.

26 (b) Fees as provided in Sections 26828, 26830, and
27 26834 of the Government Code shall be charged and
28 collected by the clerk for the issuance of a writ of
29 execution, an order of examination of a judgment debtor,
30 or an abstract of judgment.

31 (c) The prevailing party in any action subject to this
32 chapter is entitled to the costs of enforcing the judgment
33 and accrued interest.

34 ~~SEC. 9.~~

35 *SEC. 8.* Section 116.910 of the Code of Civil Procedure
36 is amended to read:

37 116.910. (a) Except as provided in this chapter
38 (including, but not limited to, Section 116.230), no fee or
39 charge shall be collected by any officer for any service
40 provided under this chapter.

(b) All fees collected under this chapter shall be deposited with the treasurer of the city and county or county in whose jurisdiction the court is located.

(c) Six dollars (\$6) of each fifteen dollar (\$15) fee and fourteen dollars (\$14) of each thirty dollar (\$30) fee charged and collected under subdivision (a) of Section 116.230 shall be deposited by each county in a special account. Of the money deposited in this account:

(1) In counties with a population of less than 4,000,000, a minimum of 50 percent shall be used to fund the small claims adviser service described in Section 116.940. The remainder of these funds shall be used for court and court-related programs. Records of these moneys shall be available for inspection by the public on request.

(2) In counties with a population of at least 4,000,000, not less than five hundred thousand dollars (\$500,000) shall be used to fund the small claims adviser service described in Section 116.940. That amount shall be increased each fiscal year by an amount equal to the percentage increase in revenues derived from small claims court filing fees over the prior fiscal year. The remainder of these funds shall be used for court and court-related programs. Records of these moneys shall be available for inspection by the public on request.

(d) This section and Section 116.940 shall not be applied in any manner that results in a reduction of the level of services, or the amount of funds allocated for providing the services described in Section 116.940, that are in existence in each county during the fiscal year 1989–90. Nothing in this section shall preclude the county from procuring other funding, including state court block grants, to comply with the requirements of Section 116.940.

~~SEC. 10.~~

SEC. 9. Section 405.22 of the Code of Civil Procedure is amended to read:

405.22. Except in actions subject to Section 405.6, the claimant shall, prior to recordation of the notice, cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested, to all known addresses of

1 the parties to whom the real property claim is adverse
2 and to all owners of record of the real property affected
3 by the real property claim as shown by the latest county
4 assessment roll . If there is no known address for service
5 on an adverse party or owner, then as to that party or
6 owner a declaration under penalty of perjury to that
7 effect shall be recorded instead of the proof of service
8 required above, and the service on that party or owner
9 shall not be required. Immediately following recordation,
10 a copy of the notice shall also be filed with the court in
11 which the action is pending. Service shall also be made
12 immediately and in the same manner upon each adverse
13 party later joined in the action.

14 ~~SEC. 10.2.~~

15 *SEC. 10.* Section 488.395 of the Code of Civil
16 Procedure is amended to read:

17 488.395. Except as specified in subdivision (e) and as
18 provided by Sections 488.325 and 488.405:

19 (a) To attach farm products or inventory of a going
20 business in the possession or under the control of the
21 defendant, the levying officer shall place a keeper in
22 charge of the property for the period prescribed by
23 subdivisions (b) and (c). During the keeper period, the
24 business may continue to operate in the ordinary course
25 of business provided that all sales are final and are for cash
26 or its equivalent. For the purpose of this subdivision, a
27 check is the equivalent of cash. The levying officer is not
28 liable for accepting payment in the form of a cash
29 equivalent. The keeper shall take custody of the proceeds
30 from all sales unless otherwise directed by the plaintiff.

31 (b) Subject to subdivision (c), the period during
32 which the business may continue to operate under the
33 keeper is:

34 (1) Ten days, if the defendant is a natural person and
35 the writ of attachment has been issued ex parte pursuant
36 to Article 3 (commencing with Section 484.510) of
37 Chapter 4 or pursuant to Chapter 5 (commencing with
38 Section 485.010).

39 (2) Two days, in cases not described in paragraph (1).

(c) Unless some other disposition is agreed upon by the plaintiff and the defendant, the levying officer shall take the farm products or inventory into exclusive custody at the earlier of the following times:

(1) At any time the defendant objects to placement of a keeper in charge of the business.

(2) At the conclusion of the applicable period prescribed by subdivision (b).

(d) A defendant described in paragraph (1) of subdivision (b) may claim an exemption pursuant to subdivision (b) of Section 487.020 by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply. Upon a showing that the property is exempt pursuant to subdivision (b) of Section 487.020, the court shall order the release of the exempt property and may make such further order as the court deems appropriate to protect against frustration of the collection of the plaintiff's claim. The order may permit the plaintiff to attach farm products or inventory of the going business and proceeds or after-acquired property, or both, by filing pursuant to Section 488.405 and may provide reasonable restrictions on the disposition of the property previously attached.

(e) This section does not apply to the placement of a keeper in a business for the purpose of attaching tangible personal property consisting solely of money or equivalent proceeds of sales, which shall be conducted in the same manner as provided in Section 700.070.

~~SEC. 10.4. Section 685.070 of the Code of Civil Procedure is amended to read:~~

~~685.070. (a) The judgment creditor may claim under this section the following costs of enforcing a judgment:~~

~~(1) Statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment.~~

~~(2) Statutory fees for filing a notice of judgment lien on personal property.~~

~~(3) Statutory fees for issuing a writ for the enforcement of the judgment to the extent that the fees are not satisfied pursuant to Section 685.050.~~

~~(4) Statutory costs of the levying officer for performing the duties under a writ to the extent that the costs are not satisfied pursuant to Section 685.050 and the statutory fee of the levying officer for performing the duties under the Wage Garnishment Law to the extent that the fee has not been satisfied pursuant to the wage garnishment.~~

~~(5) Costs incurred in connection with any proceeding under Chapter 6 (commencing with Section 708.010) of Division 2 that have been approved as to amount, reasonableness, and necessity by the judge or referee conducting the proceeding.~~

~~(6) Attorney's fees, if allowed by Section 685.040.~~

~~(b) Before the judgment is fully satisfied but not later than two years after the costs have been incurred, the judgment creditor claiming costs under this section shall file a memorandum of costs with the court clerk and serve a copy on the judgment debtor. Service shall be made personally or by mail. The memorandum of costs shall be executed under oath by a person who has knowledge of the facts and shall state that to the person's best knowledge and belief the costs are correct, are reasonable and necessary, and have not been satisfied.~~

~~(c) Within 15 days after the memorandum of costs is served on the judgment debtor, the judgment debtor may apply to the court on noticed motion to have the costs taxed by the court. If the memorandum of costs was served by mail, this period shall be extended pursuant to Section 1013. The notice of motion shall be served on the judgment creditor. Service shall be made personally or by mail. The court shall make an order allowing or disallowing the costs to the extent justified under the circumstances of the case.~~

~~(d) If no motion to tax costs is made within the time provided in subdivision (c), the costs claimed in the memorandum are allowed.~~

~~(c) If a memorandum of costs for the costs specified in subdivision (a) is filed at the same time as an application for a writ of execution, these statutory costs not already allowed by the court in an amount not to exceed one hundred dollars (\$100) in the aggregate may be included in the amount specified in the writ of execution, subject to subsequent disallowance as ordered by the court pursuant to a motion to tax if filed by the debtor. The memorandum of costs shall contain the following statement: "The fees sought under this memorandum may be disallowed by a court upon a motion to tax filed by the debtor notwithstanding the fees having been included in the writ of execution." The inclusion of the above costs in the writ of execution or the pendency of the motion to tax on these costs shall not be cause for the clerk of the court to delay issuing the writ of execution or for the levying officer to delay enforcing the writ of execution.~~

SEC. 11. Section 700.070 of the Code of Civil Procedure is amended to read:

700.070. To levy upon tangible personal property of a going business in the possession or under the control of the judgment debtor, the levying officer shall comply with Section 700.030, except to the extent that the judgment creditor instructs that levy be made in the following manner:

(a) The levying officer shall place a keeper in charge of the business for the period requested by the judgment creditor. During the period, the business may continue to operate in the ordinary course of business provided that all sales are final and are for cash or its equivalent. For the purpose of this subdivision, a check is the equivalent of cash. The levying officer is not liable for accepting payment in the form of a cash equivalent. The keeper shall take custody of the proceeds from all sales unless otherwise directed by the judgment creditor.

(b) The levying officer shall take the tangible personal property into exclusive custody at the earliest of the following times:

1 (1) At any time the judgment debtor objects to
2 placement of a keeper in charge of the business.

3 (2) At any time when requested by the judgment
4 creditor.

5 (3) At the end of 10 days from the time the keeper is
6 placed in charge of the business.

7 (c) Where a keeper is placed in a business for the
8 purpose of taking into custody tangible personal property
9 consisting solely of money or equivalent proceeds of sales,
10 the provisions of subdivision (b) shall not apply, and the
11 levying officer shall take such property into exclusive
12 custody at the end of each daily keeper period.

13 ~~SEC. 11.2. Section 904.2 of the Code of Civil~~
14 ~~Procedure is amended to read:~~

15 ~~904.2. An appeal may be taken from a municipal court~~
16 ~~in the following cases:~~

17 ~~(a) From a judgment, except (1) an interlocutory~~
18 ~~judgment, (2) a judgment of contempt which is made~~
19 ~~final and conclusive by Section 1222, (3) the decision of~~
20 ~~a court pursuant to Section 53069.4 of the Government~~
21 ~~Code, (4) the decision of a court pursuant to Section~~
22 ~~40230 of the Vehicle Code, or (5) the decision of a court~~
23 ~~pursuant to Section 40256 of the Vehicle Code.~~

24 ~~(b) From an order made after a judgment made~~
25 ~~appealable by subdivision (a).~~

26 ~~(c) From an order changing or refusing to change the~~
27 ~~place of trial.~~

28 ~~(d) From an order granting a motion to quash service~~
29 ~~of summons or granting a motion to stay or dismiss the~~
30 ~~action on the ground of inconvenient forum.~~

31 ~~(e) From an order granting a new trial or denying a~~
32 ~~motion for judgment notwithstanding the verdict.~~

33 ~~(f) From an order discharging or refusing to discharge~~
34 ~~an attachment or granting a right to attach order.~~

35 ~~(g) From an order granting or dissolving an~~
36
37
38
39
40

1 1985.7. When a medical provider fails to comply with
2 Section 1158 of the Evidence Code, in addition to any
3 other available remedy, the demanding party may apply
4 to the court for an order to show cause why the records
5 should not be produced.

6 Any order to show cause issued pursuant to this section
7 shall be served upon respondent in the same manner as
8 a summons. It shall be returnable no sooner than 20 days
9 after issuance unless ordered otherwise upon a showing
10 of substantial hardship. The court shall impose monetary
11 sanctions pursuant to Section 1158 of the Evidence Code
12 unless it finds that the person subject to the sanction acted
13 with substantial justification or that other circumstances
14 make the imposition of the sanction unjust.

15 ~~SEC. 13. Section 53069.4 of the Government Code is~~
16 ~~amended to read:~~

17 ~~53069.4. (a) (1) The legislative body of a local~~
18 ~~agency, as the term "local agency" is defined in Section~~
19 ~~54951, may by ordinance make any violation of any~~
20 ~~ordinance enacted by the local agency subject to an~~
21 ~~administrative fine or penalty. The local agency shall set~~
22 ~~forth by ordinance the administrative procedures that~~
23 ~~shall govern the imposition, enforcement, collection, and~~
24 ~~administrative review by the local agency of those~~
25 ~~administrative fines or penalties. Where the violation~~
26 ~~would otherwise be an infraction, the administrative fine~~
27 ~~or penalty shall not exceed the maximum fine or penalty~~
28 ~~amounts for infractions set forth in subdivision (b) of~~
29 ~~Section 25132 and subdivision (b) of Section 36900.~~

30 ~~(2) The administrative procedures set forth by~~
31 ~~ordinance adopted by the local agency pursuant to~~
32 ~~paragraph (1), shall provide for a reasonable period of~~
33 ~~time, as specified in the ordinance, for a person~~
34 ~~responsible for a continuing violation to correct or~~
35 ~~otherwise remedy the violation prior to the imposition of~~
36 ~~administrative fines or penalties, when the violation~~
37 ~~pertains to building, plumbing, electrical, or other similar~~
38 ~~structural or zoning issues, that do not create an~~
39 ~~immediate danger to health or safety.~~

~~(b) (1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the municipal court, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.~~

~~(2) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.~~

~~(3) The hearing shall be informal, the object being to dispense justice promptly, fairly, and inexpensively. No party has a right to a formal trial by the court or a jury and no statement of decision is required. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency and any deposit of the fine or penalty shall be refunded by the local agency.~~

~~(4) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial~~

~~officials at the direction of the presiding judge of the court.~~

~~(e) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.~~

~~(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.~~

~~(e) There is no right of appeal by the contestant or the local agency, and the decision of the municipal court is final and conclusive.~~

~~SEC. 13.2.~~

SEC. 13. Section 68150 of the Government Code is amended to read:

68150. (a) Trial court records may be preserved in any form of communication or representation, including optical, electronic, magnetic, micrographic, or photographic media or other technology capable of accurately producing or reproducing the original record according to minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management.

Specifications for electronic recordings made as the official record of the oral proceedings shall be governed by the California Rules of Court.

(b) No additions, deletions, or changes shall be made to the content of the record. The records shall be indexed for convenient access.

(c) A copy of the record preserved or reproduced according to subdivisions (a) and (b) shall be deemed the original court record and may be certified as a correct copy of the original record.

(d) A court record preserved or reproduced in accordance with subdivisions (a) and (b) shall be stored in a manner and in a place that reasonably assures its preservation against loss, theft, defacement, or destruction for the prescribed retention period under

1 Section 68152. Electronic recordings made as the official
2 record of the oral proceedings shall not require a backup
3 copy unless otherwise specified in the California Rules of
4 Court.

5 (e) The court record that was reproduced in
6 accordance with subdivisions (a) and (b) may be
7 disposed of in accordance with the procedure under
8 Section 68153, unless it is subject to subdivision (f).

9 (f) The following court records may be preserved or
10 reproduced under subdivisions (a) and (b) but shall also
11 be preserved on paper, microfilm, or in another form of
12 communication or representation approved by and in
13 accordance with standards that are defined as archival by
14 the American National Standards Institute for the
15 duration of the record's retention period:

16 (1) The comprehensive historical and sample superior
17 court records preserved for research under the California
18 Rules of Court.

19 (2) Court records that are preserved permanently.

20 Court records that must be preserved longer than 10
21 years but not permanently may be reproduced on media
22 other than paper or microfilm using technology
23 authorized under subdivisions (a) and (b). However the
24 records shall be reproduced before the expiration of their
25 estimated lifespan for the medium in which they are
26 stored as specified in subdivision (g).

27 (g) Instructions for access to data stored on a medium
28 other than paper shall be documented. Each court shall
29 conduct a periodic review of the media in which the court
30 records are stored to assure that the storage medium is
31 not obsolete and that current technology is capable of
32 accessing and reproducing the records. The court shall
33 reproduce records before the expiration of their
34 estimated lifespan for the medium in which they are
35 stored according to minimum standards and guidelines
36 for the preservation and reproduction of the medium
37 adopted by the American National Standards Institute or
38 the Association for Information and Image Management.

39 (h) Court records preserved or reproduced under
40 subdivisions (a) and (b) shall be made reasonably

1 accessible to all members of the public for viewing and
2 duplication as would the paper records. Reasonable
3 provision shall be made for duplicating the records at
4 cost. Cost shall consist of all costs associated with
5 duplicating the records as determined by the court.

6 SEC. 14. Section 68151 of the Government Code is
7 amended to read:

8 68151. The following definitions apply to this chapter:

9 (a) "Court record" shall consist of the following:

10 (1) All filed papers and documents in the case folder;
11 but if no case folder is created by the court, all filed papers
12 and documents that would have been in the case folder
13 if one had been created.

14 (2) Administrative records filed in an action or
15 proceeding, depositions, paper exhibits, transcripts,
16 including preliminary hearing transcripts, and tapes of
17 electronically recorded proceedings filed, lodged, or
18 maintained in connection with the case, unless disposed
19 of earlier in the case pursuant to law.

20 (3) Other records listed under subdivision (j) of
21 Section 68152.

22 (b) "Notice of destruction and no transfer" means that
23 the clerk has given notice of destruction of the superior
24 court records open to public inspection, and that there is
25 no request and order for transfer of the records as
26 provided in the California Rules of Court.

27 (c) "Final disposition of the case" means that an
28 acquittal, dismissal, or order of judgment has been
29 entered in the case or proceeding, the judgment has
30 become final, and no postjudgment motions or appeals
31 are pending in the case or for the reviewing court upon
32 the mailing of notice of the issuance of the remittitur.

33 In a criminal prosecution, the order of judgment shall
34 mean imposition of sentence, entry of an appealable
35 order (including, but not limited to, an order granting
36 probation, commitment of a defendant for insanity, or
37 commitment of a defendant as a narcotics addict
38 appealable under Section 1237 of the Penal Code), or
39 forfeiture of bail without issuance of a bench warrant or
40 calendaring of other proceedings.

(d) “Retain permanently” means that the original court records shall never be transferred or destroyed.

SEC. 15. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

(a) Adoption: retain permanently.

(b) Change of name: retain permanently.

(c) Other civil actions and proceedings, as follows:

(1) Except as otherwise specified: 10 years.

(2) Where a party appears by a guardian ad litem: 10 years after termination of the court’s jurisdiction.

(3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.

(4) Eminent domain: retain permanently.

(5) Family law, except as otherwise specified: 30 years.

(6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.

(7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.

(8) Paternity: retain permanently.

(9) Petition, except as otherwise specified: 10 years.

(10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.

(11) Small claims: 10 years.

(12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.

(d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:

(1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.

(2) Voluntarily dismissed by a party without entry of judgment: one year.

Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.

(e) Criminal.

(1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.

(2) Felony, except as otherwise specified: 75 years.

(3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.

(4) Misdemeanor, except as otherwise specified: five years.

(5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.

(6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: seven years.

(7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.

(8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.

(9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under

1 Sections 30951 to 30956, inclusive, of the Food and
2 Agricultural Code or violation of any other local
3 ordinance: three years.

4 (10) Infraction, except as otherwise specified: three
5 years.

6 (11) Parking infractions, including alleged violations
7 under the stopping, standing, and parking provisions set
8 forth in Chapter 9 (commencing with Section 22500) of
9 Division 11 of the Vehicle Code: two years.

10 (f) Habeas corpus: same period as period for retention
11 of the records in the underlying case category.

12 (g) Juvenile.

13 (1) Dependent (Section 300 of the Welfare and
14 Institutions Code): upon reaching age 28 or on written
15 request shall be released to the juvenile five years after
16 jurisdiction over the person has terminated under
17 subdivision (a) of Section 826 of the Welfare and
18 Institutions Code. Sealed records shall be destroyed upon
19 court order five years after the records have been sealed
20 pursuant to subdivision (c) of Section 389 of the Welfare
21 and Institutions Code.

22 (2) Ward (Section 601 of the Welfare and Institutions
23 Code): upon reaching age 21 or on written request shall
24 be released to the juvenile five years after jurisdiction
25 over the person has terminated under subdivision (a) of
26 Section 826 of the Welfare and Institutions Code. Sealed
27 records shall be destroyed upon court order five years
28 after the records have been sealed under subdivision (d)
29 of Section 781 of the Welfare and Institutions Code.

30 (3) Ward (Section 602 of the Welfare and Institutions
31 Code): upon reaching age 38 under subdivision (a) of
32 Section 826 of the Welfare and Institutions Code. Sealed
33 records shall be destroyed upon court order when the
34 subject of the record reaches the age of 38 under
35 subdivision (d) of Section 781 of the Welfare and
36 Institutions Code.

37 (4) Traffic and some nontraffic misdemeanors and
38 infractions (Section 601 of the Welfare and Institutions
39 Code): upon reaching age 21 or five years after
40 jurisdiction over the person has terminated under



1 subdivision (c) of Section 826 of the Welfare and
2 Institutions Code. May be microfilmed or photocopied.

3 (5) Marijuana misdemeanor under subdivision (e) of
4 Section 11357 of the Health and Safety Code in
5 accordance with procedures specified in subdivision (a)
6 of Section 11361.5 of the Health and Safety Code: upon
7 reaching age 18 the records shall be destroyed.

8 (h) Probate.

9 (1) Conservatorship: 10 years after decree of
10 termination.

11 (2) Guardianship: 10 years after the age of 18.

12 (3) Probate, including probated wills, except as
13 otherwise specified: retain permanently.

14 (i) Court records of the appellate department of the
15 trial court: five years.

16 (j) Other records.

17 (1) Applications in forma pauperis: same period as
18 period for retention of the records in the underlying case
19 category.

20 (2) Arrest warrant: same period as period for retention
21 of the records in the underlying case category.

22 (3) Bench warrant: same period as period for
23 retention of the records in the underlying case category.

24 (4) Bond: three years after exoneration and release.

25 (5) Coroner's inquest report: same period as period for
26 retention of the records in the underlying case category;
27 if no case, then permanent.

28 (6) Court orders not associated with an underlying
29 case, such as orders for destruction of court records for
30 telephone taps, or to destroy drugs, and other
31 miscellaneous court orders: three years.

32 (7) Court reporter notes: 10 years after the notes have
33 been taken in criminal and juvenile proceedings and five
34 years after the notes have been taken in all other
35 proceedings, except notes reporting proceedings in
36 capital felony cases (murder with special circumstances
37 where the prosecution seeks the death penalty and the
38 sentence is death), including notes reporting the
39 preliminary hearing, which shall be retained

1 permanently, unless the Supreme Court on request of the
2 court clerk authorizes the destruction.

3 (8) Electronic recordings made as the official record
4 of the oral proceedings under the California Rules of
5 Court: any time after final disposition of the case in
6 infraction and misdemeanor proceedings, 10 years in all
7 other criminal proceedings, and five years in all other
8 proceedings.

9 (9) Electronic recordings not made as the official
10 record of the oral proceedings under the California Rules
11 of Court: any time either before or after final disposition
12 of the case.

13 (10) Index, except as otherwise specified: retain
14 permanently.

15 (11) Index for cases alleging traffic violations: same
16 period as period for retention of the records in the
17 underlying case category.

18 (12) Judgments within the jurisdiction of the superior
19 court: retain permanently.

20 (13) Judgments within the jurisdiction of the
21 municipal and justice court: same period as period for
22 retention of the records in the underlying case category.

23 (14) Minutes: same period as period for retention of
24 the records in the underlying case category.

25 (15) Naturalization index: retain permanently.

26 (16) Ninety-day evaluation (under Section 1203.03 of
27 the Penal Code): same period as period for retention of
28 the records in the underlying case category, or period for
29 completion or termination of probation, whichever is
30 longer.

31 (17) Register of actions or docket: same period as
32 period for retention of the records in the underlying case
33 category, but in no event less than 10 years for civil and
34 small claims cases.

35 (18) Search warrant: 10 years, except search warrants
36 issued in connection with a capital felony case defined in
37 paragraph (7), which shall be retained permanently.

38 (k) Retention of any of the court records under this
39 section shall be extended as follows:



1 (1) By order of the court on its own motion, or on
2 application of a party or any interested member of the
3 public for good cause shown and on such terms as are just.
4 No fee shall be charged for making the application.

5 (2) Upon application and order for renewal of the
6 judgment to the extended time for enforcing the
7 judgment.

8 SEC. 16. Section 68616 of the Government Code, as
9 amended by Section 7 of Chapter 1261 of the Statutes of
10 1993, is amended to read:

11 68616. Delay reduction rules shall not require shorter
12 time periods than as follows:

13 (a) Service of the complaint within 60 days after filing.
14 Exceptions, for longer periods of time, may be granted as
15 authorized by local rule.

16 (b) Service of responsive pleadings within 30 days
17 after service of the complaint. The parties may stipulate
18 to an additional 15 days. Exceptions, for longer periods of
19 time, may be granted as authorized by local rule.

20 (c) Time for service of notice or other paper under
21 Sections 1005 and 1013 of the Code of Civil Procedure and
22 time to plead after service of summons under Section
23 412.20 of the Code of Civil Procedure shall not be
24 shortened except as provided in those sections.

25 (d) Within 30 days of service of the responsive
26 pleadings, the parties may, by stipulation filed with the
27 court, agree to a single continuance not to exceed 30 days.

28 It is the intent of the Legislature that these stipulations
29 not detract from the efforts of the courts to comply with
30 standards of timely disposition. To this extent, the Judicial
31 Council shall develop statistics that distinguish between
32 cases involving, and not involving, these stipulations.

33 (e) No status conference, or similar event, other than
34 a challenge to the jurisdiction of the court, may be
35 required to be conducted sooner than 30 days after
36 service of the first responsive pleadings, or no sooner than
37 30 days after expiration of a stipulated continuance, if any,
38 pursuant to subdivision (d).

39 (f) Article 3 (commencing with Section 2016) of
40 Chapter 3 of Title 3 of Part 4 of the Code of Civil

1 Procedure shall govern discovery, except in arbitration
2 proceedings, and the time periods set forth in that article
3 may not be shortened by local rule.

4 (g) An order referring an action to arbitration or
5 mediation may be made at any status conference held in
6 accordance with subdivision (e), provided that any
7 arbitration ordered may not commence prior to 210 days
8 after the filing of the complaint, exclusive of the
9 stipulated period provided in subdivision (d). Any
10 mediation ordered pursuant to Section 1775.3 of the Code
11 of Civil Procedure may be commenced prior to 210 days
12 after the filing of the complaint, exclusive of the
13 stipulated period provided in subdivision (d). No rule
14 adopted pursuant to this article may contravene Sections
15 638 and 639 of the Code of Civil Procedure.

16 (h) Unnamed (DOE) defendants shall not be
17 dismissed prior to the conclusion of the introduction of
18 evidence at trial, except upon stipulation or motion of the
19 parties.

20 (i) Notwithstanding Section 170.6 of the Code of Civil
21 Procedure, in direct calendar courts, challenges pursuant
22 to that section shall be exercised within 15 days of the
23 party's first appearance. Master calendar courts shall be
24 governed solely by Section 170.6 of the Code of Civil
25 Procedure.

26 (j) This section applies to all cases subject to this article
27 which are filed on or after January 1, 1991.

28 (k) This section shall remain in effect only until
29 January 1, 1999, and as of that date is repealed, unless a
30 later enacted statute, which is enacted before January 1,
31 1999, deletes or extends that date.

32 SEC. 17. Section 68616 of the Government Code, as
33 added by Section 8 of Chapter 1261 of the Statutes of 1993,
34 is amended to read:

35 68616. Delay reduction rules shall not require shorter
36 time periods than as follows:

37 (a) Service of the complaint within 60 days after filing.
38 Exceptions, for longer periods of time, may be granted as
39 authorized by local rule.

1 (b) Service of responsive pleadings within 30 days
2 after service of the complaint. The parties may stipulate
3 to an additional 15 days. Exceptions, for longer periods of
4 time, may be granted as authorized by local rule.

5 (c) Time for service of notice or other paper under
6 Sections 1005 and 1013 of the Code of Civil Procedure and
7 time to plead after service of summons under Section
8 412.20 of the Code of Civil Procedure shall not be
9 shortened except as provided in those sections.

10 (d) Within 30 days of service of the responsive
11 pleadings, the parties may, by stipulation filed with the
12 court, agree to a single continuance not to exceed 30 days.

13 It is the intent of the Legislature that these stipulations
14 not detract from the efforts of the courts to comply with
15 standards of timely disposition. To this extent, the Judicial
16 Council shall develop statistics that distinguish between
17 cases involving, and not involving, these stipulations.

18 (e) No status conference, or similar event, other than
19 a challenge to the jurisdiction of the court, may be
20 required to be conducted sooner than 30 days after
21 service of the first responsive pleadings, or no sooner than
22 30 days after expiration of a stipulated continuance, if any,
23 pursuant to subdivision (d).

24 (f) Article 3 (commencing with Section 2016) of
25 Chapter 3 of Title 3 of Part 4 of the Code of Civil
26 Procedure shall govern discovery, except in arbitration
27 proceedings, and the time periods set forth in that article
28 may not be shortened by local rule.

29 (g) No case may be referred to arbitration prior to 210
30 days after the filing of the complaint, exclusive of the
31 stipulated period provided for in subdivision (d). No rule
32 adopted pursuant to this article may contravene Sections
33 638 and 639 of the Code of Civil Procedure.

34 (h) Unnamed (DOE) defendants shall not be
35 dismissed prior to the conclusion of the introduction of
36 evidence at trial, except upon stipulation or motion of the
37 parties.

38 (i) Notwithstanding Section 170.6 of the Code of Civil
39 Procedure, in direct calendar courts, challenges pursuant
40 to that section shall be exercised within 15 days of the

1 party's first appearance. Master calendar courts shall be
2 governed solely by Section 170.6 of the Code of Civil
3 Procedure.

4 (j) This section applies to all cases subject to this article
5 which are filed on or after January 1, 1991.

6 (k) This section shall become operative on January 1,
7 1999.

8 ~~SEC. 18. Section 40230 of the Vehicle Code is~~
9 ~~amended to read:~~

10 ~~40230. (a) Within 30 calendar days after the mailing~~
11 ~~or personal delivery of the final decision described in~~
12 ~~subdivision (b) of Section 40215, the contestant may seek~~
13 ~~review by filing an appeal to be heard by the municipal~~
14 ~~court, where the same shall be heard de novo, except that~~
15 ~~the contents of the processing agency's file in the case~~
16 ~~shall be received in evidence. A copy of the notice of~~
17 ~~parking violation or, if the citation was issued~~
18 ~~electronically, a true and correct abstract containing the~~
19 ~~information set forth in the notice of parking violation~~
20 ~~shall be admitted into evidence as prima facie evidence~~
21 ~~of the facts stated therein. A copy of the notice of appeal~~
22 ~~shall be served in person or by first class mail upon the~~
23 ~~processing agency by the contestant. For purposes of~~
24 ~~computing the 30 calendar day period, Section 1013 of the~~
25 ~~Code of Civil Procedure shall be applicable.~~

26 ~~(b) The fee for filing the notice of appeal is twenty-five~~
27 ~~dollars (\$25). The court shall request that the processing~~
28 ~~agency's file on the case be forwarded to the court, to be~~
29 ~~received within 15 calendar days of the request. The court~~
30 ~~shall notify the contestant of the appearance date by mail~~
31 ~~or personal delivery. The court shall retain the~~
32 ~~twenty-five dollar (\$25) fee regardless of the outcome of~~
33 ~~the appeal.~~

34 ~~(c) The hearing shall be informal, the object being to~~
35 ~~dispense justice promptly, fairly, and inexpensively. No~~
36 ~~party has a right to a formal trial by the court or a jury and~~
37 ~~no statement of decision is required. If the court finds in~~
38 ~~favor of the contestant, the amount of the fee shall be~~
39 ~~reimbursed to the contestant by the processing agency~~

1 ~~and any deposit or parking penalty shall be refunded by~~
2 ~~the processing agency.~~

3 ~~(d) The conduct of the appeal under this section is a~~
4 ~~subordinate judicial duty that may be performed by~~
5 ~~traffic trial commissioners and other subordinate judicial~~
6 ~~officials at the direction of the presiding judge of the~~
7 ~~court.~~

8 ~~(e) If no notice of appeal of the processing agency's~~
9 ~~decision is filed within the period set forth in subdivision~~
10 ~~(a), the decision shall be deemed final.~~

11 ~~(f) If the parking penalty has not been deposited and~~
12 ~~the decision is against the contestant, the processing~~
13 ~~agency shall, after the decision becomes final, proceed to~~
14 ~~collect the penalty pursuant to Section 40220.~~

15 ~~(g) There is no right of appeal by the contestant or the~~
16 ~~agency, and the decision of the municipal court is final~~
17 ~~and conclusive.~~

18 ~~SEC. 19. Section 40256 of the Vehicle Code is~~
19 ~~amended to read:~~

20 ~~40256. (a) Within 20 days after the mailing of the~~
21 ~~final decision described in subdivision (b) of Section~~
22 ~~40255, the contestant may seek review by filing an appeal~~
23 ~~to the municipal court, where the same shall be heard de~~
24 ~~novo, except that the contents of the processing agency's~~
25 ~~file in the case on appeal shall be received in evidence. A~~
26 ~~copy of the notice of toll evasion violation shall be~~
27 ~~admitted into evidence as prima facie evidence of the~~
28 ~~facts stated therein. A copy of the notice of appeal shall~~
29 ~~be served in person or by first class mail upon the~~
30 ~~processing agency by the contestant. For purposes of~~
31 ~~computing the 20-day period, Section 1013 of the Code of~~
32 ~~Civil Procedure shall be applicable.~~

33 ~~(b) The fee for filing the notice of appeal shall be~~
34 ~~twenty-five dollars (\$25).~~

35 ~~(c) The conduct of the hearing on appeal under this~~
36 ~~section is a subordinate judicial duty which may be~~
37 ~~performed by commissioners and other subordinate~~
38 ~~judicial officials at the direction of the presiding judge of~~
39 ~~the court.~~

~~(d) The hearing shall be informal, the object being to dispense justice promptly, fairly, and inexpensively. No party has a right to a formal trial by the court or a jury and no statement of decision is required. If the appellant prevails, the fee, together with any deposit of toll evasion penalty, shall be promptly refunded by the processing agency in accordance with the judgment of the court.~~

~~(e) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.~~

~~(f) If the toll evasion penalty has not been deposited and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty under Section 40267.~~

~~(g) There is no right of appeal by the contestant or the agency, and the decision of the municipal court is final and conclusive.~~

~~SEC. 20.~~

~~SEC. 18. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

~~Notwithstanding Section 17580 of the Government~~